

THE COMMONWEALTH PLAN, INC.

2655 CAMPUS DRIVE, SAN MATEO, CALIFORNIA 94403

EXECUTIVE OFFICES

AREA CODE 415
573-1200

May 6, 1980

Mrs. Agatha L. Mergenovich
Secretary
Interstate Commerce Commission
12th and Constitution Avenues, N.W.
Washington, D.C. 20423

11767
RECORDATION NO. 11767 Filed 1425
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MAY 6 1980
INTERSTATE COMMERCE COMMISSION
50.00
CC Washington, D.C.

Attention: Mrs. Mildred Lee, Room 2227

Dear Madam Secretary:

There are handed to you herewith, for recording in compliance with the provisions of Section 20c of the Interstate Commerce Act, seven original counterparts of a Master Leasing Agreement dated as of May 1, 1980, together with this Company's voucher in the sum of \$50.00 in payment of the required recording fees.

The following information is set forth in accordance with the provisions of Section 57.4 of the Commission's Order of July 28, 1952, as amended:

| <u>Name and Address of Lessor:</u> | <u>Name and Address of Lessee:</u> |
|------------------------------------|---|
| The Commonwealth Plan, Inc. | Southern Pacific Transportation Company |
| 2655 Campus Drive, Suite 200 | One Market Plaza |
| San Mateo, California 94403 | San Francisco, California 94105 |

General Description of the Equipment Covered by the Master Leasing Agreement:

One Class 400-K-1 Locomotive, AAR Mechanical Designation B-B, Symbol SP and Number 1600

Two Hundred (200) Tri-level Auto Racks, AAR Mechanical Designation FA, attached to railroad flatcars described as follows:

TTX 854162 through 854320, inclusive, and

| | | | | | | |
|-------------|--------|--------|--------|--------|--------|--------|
| ETTX 900186 | 900210 | 900212 | 900230 | 900241 | 900270 | 900290 |
| 901721 | 900983 | 901262 | 901267 | 901468 | 900281 | 901614 |
| 901709 | 901740 | 901778 | 902624 | 902632 | 901499 | 903324 |
| 903384 | 903398 | 903418 | 903419 | 903422 | 903100 | 903603 |
| 903859 | 903874 | 903875 | 903877 | 907283 | 903593 | 907448 |
| 907725 | 907729 | 908039 | 908262 | 908455 | 907398 | |

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Interstate Commerce Commission
May 6, 1980
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When recording of the enclosed documents has been completed, will you kindly return to our representative six counterparts of the Master Leasing Agreement, including the one marked "Original".

Very truly yours,



David R. Muhlitner
Counsel

DRM/glj
Enclosures

Interstate Commerce Commission
Washington, D.C. 20423

5/6/80

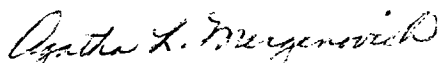
OFFICE OF THE SECRETARY

David R. Muhlthner
The Commonwealth Plan, Inc.
2655 Campus Drive
San Mateo, Calif. 94403

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 5/6/80 at 3:05pm, and assigned re-recording number(s). 11767

Sincerely yours,


Agatha L. Mergenovich
Secretary

Enclosure(s)

MASTER LEASING AGREEMENT

11767
RECORDATION NO. Filed 1423
MAY 6 1980 - 3 21 PM
INTERSTATE COMMERCE COMMISSION

This Master Leasing Agreement made as of the 1st day of May, 1980 by and between The Commonwealth Plan, Inc. (herein called "Lessor") and Southern Pacific Transportation Company (herein called "Lessee").

In consideration of the mutual covenants hereinafter contained, Lessor and Lessee agree as follows:

1. Definitions. As herein used:

(a) "Equipment" means the following types of Equipment owned or to be owned by the Lessor and leased by the Lessor to the Lessee or ordered by the Lessor for lease to the Lessee as provided herein:

Tri-level auto racks to be attached to the railroad flatcars described in Exhibit A attached hereto, telephone switching system, on-highway trucks and trailers, one locomotive described in Exhibit A, and such other equipment as may be agreed upon by Lessor and Lessee.

(b) "Acquisition Cost" of Equipment is an amount equal to the sum of the vendor's delivered price, any excise tax on the Equipment, any sales and use taxes, expenses of installation and freight and other expenses required to effect delivery of the Equipment to the Lessee.

(c) "Individual Leasing Record" is a record with respect to Equipment dated the date of the acceptance for lease of the Equipment by the Lessee and setting forth a full description of the Equipment, its Acquisition Cost, the location of the Equipment and such other details as the parties may desire. The Individual Leasing Record shall contain a short form of lease to be executed by each of the parties reading substantially as follows:

"The undersigned Lessor hereby leases to the undersigned Lessee, and the Lessee acknowledges delivery to it in good condition of, the Equipment described above. The covenants, terms and conditions of this lease are those appearing in a general Leasing Agreement between the undersigned Lessor and Lessee dated as of May 1, 1980, which covenants, terms and conditions are hereby incorporated by reference.

THE COMMONWEALTH PLAN, INC., Lessor

By _____

SOUTHERN PACIFIC TRANSPORTATION
COMPANY, Lessee

By _____"

(d) "Bank" means The First National Bank of Boston.

(e) "Monthly Amortization Figure" for any Equipment for each full month during the lease of such Equipment is an amount equal to the Acquisition Cost of the Equipment divided by the number of months in the following schedule:

| Type Of Equipment | No. of Months* |
|-------------------------------------|----------------|
| Equipment discussed in Section 1(a) | 36 to 120 |

*The number of months in the period over which the Acquisition Cost is to be fully amortized ("Amortization Period") for each new unit of Equipment described in Section 1(a) shall range from 36 to 120 months as determined by Lessee at the time such Equipment is placed under lease. Lessee agrees that the Amortization Period for each new unit of Equipment will be determined by Lessee on the basis of the use and workload to which Lessee contemplates subjecting such Equipment, and upon request, the Lessee will furnish Lessor with information regarding the anticipated useful life of such Equipment.

Monthly Amortization shall be accounted for by Lessee as of the close of business of the last day of each full month of the lease of the Equipment until the Amortized Value of the Equipment has reached zero.

(f) The "Aggregate Amortization" of any Equipment is an amount equal to the sum total of the Monthly Amortization Figures for each of the months for which Rent for the Equipment has been paid.

(g) "Amortized Value" of Equipment is the Acquisition Cost of the Equipment less its Aggregate Amortization.

(h) "Rent" for any Equipment for any month during the term of the lease of such Equipment will be the sum of the Monthly Amortization Figure for such Equipment plus an amount computed by multiplying (x) the Amortized Value of the Equipment on the first day of each month by (y) at Lessor's option exercised on the first day of each month, a rate per annum based upon a 365 day year equal to (i) the Base Rate of the Bank, as defined below, plus one and one-half percent (1-1/2%) or (ii) the Adjusted CD Rate of The First National Bank of Chicago, as defined below, plus two percent (2%); provided however, that the rate per annum will be adjusted on the first day of each month to the Base Rate of the Bank on the 15th day of the preceeding month plus one and one-half percent (1-1/2%) or the Adjusted CD Rate of The First National Bank of Chicago on the 15th day of the preceding month plus two percent (2%), whichever is applicable. The "Base Rate" of the Bank is the rate of interest designated by the Bank from time to time as its Base Rate and usually charged on new 90-day unsecured loans to substantial and responsible commercial borrowers. The "Adjusted CD Rate" of The First National Bank of Chicago is the quotient of (i) the CD Rate divided by (ii) a number which equals 100% minus the aggregate rates of (A) basic and supplemental reserve requirements in effect on the day of determination under Regulation D applicable to certificates of deposit in units of \$100,000 or more issued by a "member bank" located in a "reserve city" (as such terms are used in Regulation D) and (B) marginal reserve requirements in effect on such date of determination under Regulation D applicable to time deposits of a "member bank". "CD Rate" is the latest three-week moving average of secondary market morning offering rates in the United States for three-month certificates of deposit of major United States money market banks. The CD Rate shall be determined weekly by The First National Bank of Chicago on the basis of reports by certificate of deposit dealers to, and published by, the Federal Reserve Bank of New York or, if such publication shall be unavailable, on the basis of any other sources reasonably selected by The First National Bank of Chicago, in either case adjusted to the nearest 1/100 of 1% or, if there is no nearest 1/100 of 1%, to the next highest 1/100 of 1%. The CD Rate shall change effective Monday of each week, if the Bank determines that the average, for the three-week period ending during the preceding week, has changed. In the event that the CD Rate for any period cannot be equitably determined, in the judgment of The First National Bank of Chicago, the CD Rate for such period shall be deemed to be the Corporate Base Rate. "Corporate Base

Rate" is the corporate base rate announced by The First National Bank of Chicago from time to time. "Regulation D" is Regulation D of the Board of Governors of the Federal Reserve System from time to time in effect and shall include any successor or other regulation of said Board of Governors relating to reserve requirements applicable to member banks of the Federal Reserve System.

(i) "Contingent Rent" means the amount by which the proceeds of sale of any unit of Equipment pursuant to Section 10 of this Leasing Agreement are less than they would have been because of abuse, damage, extraordinary wear and tear or excessive usage. In the event Lessor and Lessee cannot agree on the amount of Contingent Rent due, if any, they shall appoint a qualified independent appraiser to determine the amount and his decision shall be final; and, if the parties are unable to agree on a single qualified independent appraiser, each shall appoint one qualified independent appraiser and the two so appointed shall, if they are unable to agree on the amount of Contingent Rent, jointly name a third, in which event the decision of a majority of the appraisers as to the amount of Contingent Rent shall be final. All fees and expenses of the appraiser(s) shall be borne by the Lessee.

(j) "Rent" for each unit of Equipment for any extension of the lease term shall be an amount for each month equal to the then fair rental value of such unit as agreed by Lessor and Lessee.

2. Agreement for Lease of Equipment. Lessor and Lessee agree that Lessor shall acquire and lease to Lessee and Lessee shall lease from the Lessor such Equipment as may be mutually agreed upon, provided that the Aggregate Amortized Value of such Equipment leased hereunder and under any other leasing agreement between The Commonwealth Plan, Inc. and Evergreen Freight Car Corporation, Evergreen Leasing Corporation, Northwestern Pacific Railroad Company, Pacific Fruit Express Company, Pacific Motor Transport Company, Pacific Motor Trucking Company, Southern Pacific Air Freight, Inc., Southern Pacific Equipment Company, Southern Pacific Marine Transport, Inc., St. Louis Southwestern Railway Company, or Southwestern Transportation Company containing terms and conditions substantially similar to those of this Leasing Agreement (each of which other lessees hereinafter is called "Other Lessee" and each of which other leasing agreement hereinafter is called "Other Leasing Agreement") does not exceed \$30,000,000 and provided that the Equipment can be obtained. All such leases shall be entered into in

the manner and upon the terms and conditions set forth in this Leasing Agreement. Lessor and Lessee shall evidence their agreement to lease particular units of Equipment by signing and delivering to each other an Individual Leasing Record describing the Equipment. A request by the Lessee to the Lessor to acquire particular Equipment for lease hereunder shall obligate the Lessee to lease the Equipment from the Lessor upon acceptance of the Equipment by the Lessee.

3. Delivery. Lessor shall not be liable to Lessee for any failure or delay in obtaining Equipment or making delivery thereof. Upon acceptance for lease of Equipment by Lessee and receipt by Lessor of vendor's invoice for such Equipment approved by Lessee together with an Individual Leasing Record with respect to the Equipment duly executed by Lessee, Lessor shall remit to the vendor a check for the total of the vendor's invoice for such Equipment, provided that the amount paid to the vendor by Lessor shall not exceed the Acquisition Cost of the Equipment. If the amount paid to the vendor by Lessor is less than the Acquisition Cost of the Equipment, to the extent that delivery costs or costs of additions to the Equipment have been met by Lessee, and do not exceed the Acquisition Cost, Lessor shall reimburse Lessee to the extent of such payment made by Lessee up to the amount of the Acquisition Cost.

4. Lease Term. The lease hereunder of Equipment shall be effective from the date of delivery of such Equipment, but, for convenience in computing amortization and Rents, in all cases where delivery is made during the first through the fifteenth day of a month the lease term shall be deemed to commence on the first day of such month and in cases where delivery is made during the sixteenth through the last day of any month the lease term shall be deemed to commence on the first day of the next succeeding month. The lease term for each unit of Equipment shall be for a period beginning with the effective date thereof and ending three months after the last day of the month in which the effective date of the lease occurs. Thereafter, the lease term shall be extended from month to month until terminated, as provided in Sections 10, 11, 14, 15 or 16 hereof. For further convenience in computing amortization and Rents, any termination of a lease under Sections 10 or 11 hereof occurring during the first through the fifteenth day of any month shall be deemed to have occurred on the last day of the next preceding month and any such termination occurring during the sixteenth through the last day of any month shall be deemed to have occurred on the last day of said month. Notwithstanding the foregoing, at least the provisions of Section 9 and Section 11 of this Leasing Agreement shall apply as between Lessor and Lessee with respect to any Equipment from the time the Equipment is ordered by the Lessor pursuant to a request from the Lessee.

5. Rent. Lessee shall pay Rent monthly in advance on the fifteenth (15th) day of each month. Reports from Lessee shall be rendered as close to the first of each month as possible covering the computation of Rent and other payments due hereunder for the month, adjustments on the preceding month's Rent resulting from commencement or termination of individual leases during such month and other appropriate items. In addition, Lessee shall pay to Lessor as additional Rent such amounts as will compensate Lessor for any increase in the cost to it of borrowing funds to acquire the Equipment, which increase arises as a result of any increase in the cost to the Bank or to any participant with the Bank of making, maintaining or participating in any loan to the Lessor to acquire the Equipment, by reason of a change in any reserve, special deposit, or similar requirement with respect to assets of, deposits with or for the account of, or credit extended by, the Bank or any such participant which are imposed on, or deemed applicable by, the Bank or any such participant, under any law, treaty, rule, regulation (including, without limitation, Regulation D of the Board of Governors of the Federal Reserve System), any interpretation thereof by any governmental, fiscal, monetary or other authority charged with the administration thereof or having jurisdiction over such loan or the Bank or any such participant, or any requirement imposed by any such authority, whether or not having the force of law. Such additional amounts shall be payable on demand.

6. Use of Equipment. Lessor and Lessee hereby acknowledge and agree that this Leasing Agreement is and is intended to be a lease and that the Equipment leased hereunder shall at all times be the sole and exclusive property of Lessor, and Lessee shall have no right, title or property therein but only the right to use the same as herein provided. So long as Lessee is not in default in any obligation to the Lessor, Lessee shall have the right to use the Equipment in the regular course of its business or the business of any subsidiary or affiliate of the Lessee and to permit others to use same for any lawful purpose. Such use shall be confined to jurisdictions in which appropriate Uniform Commercial Code filings, or any other filings necessary to maintain a first lien in full force and effect, have been timely made. Lessee shall promptly notify both Lessor and the Bank in writing of any change in the location of any unit of Equipment. Lessee shall use and operate Equipment or cause it to be used and operated only by personnel authorized by Lessee and Lessee shall use every reasonable precaution to prevent loss or damage to any Equipment from fire and other hazards. Lessor may inspect any Equipment at any reasonable time. Lessee's employees and agents shall cooperate fully with Lessor in the investigation of any

claims and suits relating to Equipment. Lessee shall comply and shall use its best efforts to cause all persons using or operating Equipment to comply with all statutes, ordinances, and regulations regarding the use and operation of the Equipment. Lessee may sublease any Equipment provided that the sublease is subject to and in conformity with this Leasing Agreement, but no sublease shall in any way limit or affect Lessee's obligations and duties hereunder. Lessee may not assign any right or interest hereunder or permit any lien or encumbrance to remain on Equipment other than liens placed thereon by Lessor or persons claiming against Lessor but not Lessee.

7. Improvement and Repair of Equipment. Lessor shall assign or otherwise make available to Lessee all of its rights under any vendor's or manufacturer's warranty on Equipment. Lessee shall pay all costs, expenses, fees and charges incurred in connection with the use and operation of Equipment during the lease thereof. Lessee shall at all times, at its own expense, keep Equipment in first class condition and repair and in good and efficient working order, reasonable wear and tear only excepted, but Lessee shall have a reasonable time within which to repair any loss or damage to Equipment from fire or other casualty. This provision shall apply regardless of the cause of damage and all risks with respect thereto are assumed by Lessee. At its own expense, Lessee shall supply and replace all parts to the Equipment and shall supply the necessary power and other items required in the operation of the Equipment. Any replacement parts, improvements and additions to the Equipment shall become and remain the property of the Lessor, except that any improvement or addition made by the Lessee shall remain the property of the Lessee if it can be disconnected from the Equipment without impairing the functioning of the Equipment as originally constituted when first leased hereunder.

8. Insurance. The Lessee shall, at its own cost and expense, with respect to each unit of Equipment maintain insurance insuring Lessor, Lessee and any holder of a mortgage from the Lessor on the Equipment as hereinafter provided, covering (a) fire and extended coverage risks and (b) liability for bodily injury and property damage resulting from the use and operation of Equipment. All such insurance shall be in reputable companies. The comprehensive policies shall be in an amount not less than the Amortized Value of the Equipment and shall be payable to the Lessor, Lessee and any such mortgagee as their interests may appear, it being understood that Lessee shall be entitled to any insurance proceeds payable by reason of any loss or damage which is replaced or repaired by Lessee. Policies covering bodily

injury and property damage shall provide not less than \$500,000 for injury to or death of one person and, subject to that limit for each person, a total liability of \$1,000,000 for all persons injured or killed in the same accident and shall also provide not less than \$100,000 for damage, destruction and/or loss of use of property of third persons as a result of any one accident. All policies of insurance shall provide for a ten (10) day written minimum cancellation notice to the Lessor and any such mortgagee. Lessee shall furnish Lessor certificates or other evidence satisfactory to Lessor of compliance by Lessee with the provisions hereof. Lessee may self-insure with respect to the insurance referred to in subparagraphs (a) or (b) above.

9. Indemnity. Lessee agrees to indemnify, defend and hold harmless the Lessor and the Bank against any and all claims, demands, liabilities and losses of whatsoever nature and all costs and expenses relating to or in any way arising out of:

(a) The ordering, delivery, acquisition, title on acquisition, rejection, installation, possession, use, operation, control or disposition of the Equipment except to the extent that such costs are included in the Acquisition Cost of Equipment leased hereunder within the time and dollar limits provided in Section 2 hereof (or within any extension of such limits agreed to in writing by Lessor and Lessee) and except for any general administrative expenses of Lessor;

(b) all recording and filing fees, stamp taxes and like expenses with respect to mortgages on the Equipment from the Lessor to the Bank which Lessor determines it is necessary to incur;

(c) all costs, charges, damages or expenses for royalties and/or claims and expenses of litigation, arising out of or necessitated by the assertion of any claim or demand based upon any infringement or alleged infringement of any patent or other right, by or in respect of any Equipment, provided, however, that Lessor will make available to Lessee all of Lessor's rights under any similar indemnification from the manufacturer of the Equipment;

(d) all federal, state, county, municipal or other license or qualification fees and taxes whatsoever and penalties and interest thereon, whether assessed, levied against or payable by the Lessor or otherwise, with respect to the Equipment or the purchase, sale, rental, use, operation, control or owner-

ship of Equipment or measured in any way by the value thereof or by the business of the Lessor with respect thereto, excepting taxes on the net income of the Lessor determined substantially in the same manner as net income is presently determined under the Federal Internal Revenue Code;

(e) any claim by any person to any right, title or interest in or to the Equipment based upon the assertion that such Equipment is deemed to be fixtures or real property;

and Lessee shall indemnify, defend and hold Lessor and the Bank harmless against any claim with respect thereto. Lessee shall forthwith upon demand reimburse Lessor or the Bank for any sum or sums expended with respect to any of the foregoing, or shall pay for such amounts directly upon request from the Lessor or the Bank. To the extent that Lessee in fact indemnifies Lessor under the indemnity provisions of this Leasing Agreement, Lessee shall be subrogated to Lessor's rights in the affected transaction and shall have the right to control litigation related to the transaction and to determine the settlement of claims therein, and where all of the Acquisition Cost of Equipment is paid by Lessee to Lessor pursuant to this indemnity, Lessor shall convey to Lessee all of its right, title and interest in such Equipment.

10. Adjustment of Rent on Sale of Equipment. After the expiration of three (3) months from the last day of the month in which the lease of any Equipment is effective, if such Equipment has become economically or otherwise obsolete or is surplus to the Lessee's business needs, and provided that the lease has not been terminated under some other provision hereof and that there has occurred no event of default under Section 13 and no event specified in Section 11, Lessee may arrange for the termination of the lease as to and the sale of the Equipment as hereinafter provided. After written notice to the Lessor or the Bank identifying the Equipment and the proposed price and terms of a proposed sale, the Lessee, on behalf of and in cooperation with the Lessor, shall proceed directly with negotiating the sale of the Equipment to a third party unrelated to Lessee, and the Lessor shall promptly execute and transmit to the Lessee all title papers needed to effectuate the sale. In arranging for the sale of any Equipment pursuant to this Section 10, the Lessee shall use its best efforts to obtain sale proceeds not less than the Equipment's retail fair market value delivered to a purchaser or purchasers unrelated to Lessee, giving due consideration to whether the Equipment's value is higher as an aggregate, or as two or more lots of Equipment.

Lessee shall promptly transmit to Lessor or the Bank the proceeds of sale of such Equipment. Lessee will supply Lessor with such information as to the condition and location of such Equipment as Lessor may request. The lease term for each unit of Equipment sold and the Lessee's obligation to pay Rent shall continue until the end of the month during which such proceeds of sale are transmitted to Lessor or the Bank and shall thereupon terminate. If the sale proceeds are less than the Amortized Value of the Equipment but equal to or greater than 13% of the Base Amount of the Equipment the Lessee shall at the same time pay the Lessor or the Bank a sum equal to the difference between the amount of the sale proceeds and such Amortized Value. If the sale proceeds are less than 13% of the Base Amount of the Equipment, the Lessee shall at the same time pay the Lessor or the Bank the Amortized Value of the Equipment less 13% of the Base Amount, plus any Contingent Rent due for such Equipment, provided, however, that the amount of any such Contingent Rent will be no greater than the amount by which 13% of the Base Amount exceeds such sale proceeds. Any sale proceeds in excess of the Amortized Value of the Equipment at the date of termination of its lease term as terminated under the provisions of this Leasing Agreement will be for the account of the Lessor. The "Base Amount" means, as to any Equipment sold three (3) months after the commencement of its lease term, the Acquisition Cost of such Equipment, and as to any Equipment sold more than three (3) months after the commencement of its lease term, the Amortized Value of such Equipment at the date of termination of its lease term as terminated under the provisions of this Leasing Agreement. The term "sale proceeds" means the gross purchase price paid by the purchaser, without charge or reduction in any manner on account of any costs or expenses of sale, removal, transportation, repair, storage, delivery or similar costs or expenses, and all of such costs and expenses (if any) shall be borne by the Lessee.

11. Loss or Destruction of the Equipment. Lessee hereby assumes all risks of loss or damage to the Equipment howsoever the same may be caused. Lessee shall notify Lessor and the Bank immediately of any loss or of any substantial damage to any Equipment and shall keep Lessor and the Bank informed of all developments and correspondence regarding insurance rights and other rights and liabilities arising out of the loss or damage. In the event of total destruction of any of the Equipment or damage beyond repair or the commandeering, conversion or other loss of any of the Equipment, or if the use thereof by the Lessee in its regular course of business is prevented by the act of any third person or persons, or any governmental instrumentality, for a period exceeding ninety (90) days, or if any of the Equip-

ment is attached (other than on a claim against the Lessor but not the Lessee) or is seriously damaged and the attachment is not removed or the Equipment not repaired, as the case may be, in a period of ninety (90) days, then in any such event (a) Lessee shall promptly notify Lessor and the Bank in writing of such fact, (b) within ten (10) days thereafter the Lessee shall pay to the Bank an amount equal to the higher of the amount prescribed in applicable rules or regulations of the American Association of Railroads or any other governing association, agency or governmental authority for the loss or destruction of such Equipment at the time of payment or the Amortized Value of such Equipment at the time of payment, and (c) the lease of such Equipment and Lessee's obligation to pay Rent shall continue until such payment has been received by the Bank, and shall thereupon terminate.

12. Surrender of Equipment. Upon the final termination of the lease as to any Equipment (other than a termination as provided for in Sections 10, 11, 14, 15 or 16), Lessee shall surrender each item of Equipment to the Lessor at the Lessee's property where such item of Equipment is then located or at such other place or places as may be agreed upon. Lessee shall cooperate with Lessor in effecting removal of the Equipment from Lessee's property. Lessee shall pay the Lessor any amount by which the cost of removing and disposing of any Equipment exceeds the salvage value of the Equipment.

13. Events of Default. The following events of default by the Lessee shall give rise to rights on the part of the Lessor described in Section 14:

(a) Default in the payment of Rent hereunder beyond 10 days from the date such Rent is due; or

(b) Default in the performance of any other liability, obligation or covenant of the Lessee to the Lessor and the continuance of such default for thirty (30) days after written notice to the Lessee sent by registered or certified mail by the Lessor or the Bank; or

(c) Any representation or warranty, statement, certificate, schedule or report made or furnished by the Lessee proving to have been false or erroneous in any material respect at the time of the making thereof;

(d) The termination of existence or business failure of, or the making of an assignment for the benefit of creditors by, the Lessee;

(e) The institution of bankruptcy, reorganization, liquidation or receivership proceedings by or against the Lessee and, if instituted against the Lessee, its consent thereto or the pendency of such proceedings for thirty (30) days; or

(f) Default by any Other Lessee under any Other Leasing Agreement.

14. Rights of Lessor Upon Default of Lessee. Upon the occurrence of any of the events of default described in Section 13 the Lessor may in its discretion do one or more of the following:

(a) Terminate the lease of any or all Equipment leased hereunder upon five (5) days' written notice to the Lessee sent by ordinary mail;

(b) Whether or not the lease of any or all Equipment is terminated, at Lessor's option, and without notice to the extent permitted by applicable law, cause Lessee to promptly surrender possession of any of the Equipment, including substituted parts, accessories or equipment and/or other equipment or property of the Lessor in the possession of the Lessee, wherever situated, at such location or locations as Lessor may designate or take immediate possession of any or all of the foregoing, and for such purpose, enter upon any premises without liability for doing so;

(c) Whether or not any action has been taken under Sections 14(a) or (b) above, otherwise as owner hold, use, lease, sell or otherwise dispose of by public or private proceedings any Equipment or other property of Lessor as Lessor in its sole discretion may decide, subject to such duty to account to the Lessee with respect to any proceeds thereof as may be required by the provisions of this Leasing Agreement or applicable law;

(d) Exercise any and all rights and/or remedies available to Lessor in the circumstances under any applicable statute; and/or

(e) Proceed at law or in equity or otherwise to enforce performance by Lessee of this Leasing Agreement and/or to recover damages for breach thereof.

None of the foregoing rights and remedies is intended to be exclusive of any one or more other rights or remedies otherwise available to Lessor under this Leasing Agreement

or under law, all of which shall be available cumulatively. Repossession or other return of any Equipment shall not in any event relieve the Lessee of any liability hereunder.

If, after default, Lessee fails to surrender or deliver as required hereunder such Equipment or converts or destroys any Equipment or other property of Lessor, then at Lessor's option, exercised by written notice to Lessee, Lessee shall be immediately liable to Lessor for all unpaid Rent on such Equipment plus its Amortized Value at that time, together with all losses and damages sustained, and all costs and expenses (including without limitation, reasonable attorneys' fees and legal expenses) incurred as a result of such conversion, or destruction, or failure to surrender or deliver.

If a sale of any Equipment produces net cash proceeds to Lessor less than the Amortized Value of such Equipment plus the sum of all other liabilities and obligations owed by Lessee to Lessor with respect to such Equipment, all as determined at the time such proceeds are received by Lessor, then Lessee shall in any event be liable for, and shall forthwith pay to Lessor, the amount of such deficiency. If any re-lease or rental of Equipment produces for Lessor any monthly rents and other payments in cash which are in amount less than the amounts of monthly Rents and other payments which are required by this Leasing Agreement with respect to such Equipment, each determined at the time the payment is received by Lessor, then Lessee shall in any event be liable for, and shall pay to Lessor, on each monthly rental due date or on the applicable dates of such other payments (if any), as the case may be, the difference between the cash received by Lessor from such re-lease or rental and the cash amounts, in each instance, required to be paid to Lessor by this Leasing Agreement.

In any event of default by Lessee, in addition to and without limitation of any other provision of this Section 14, Lessee shall be immediately liable to Lessor for all losses and damages sustained as a result of Lessee's default, and also for all costs and expenses incurred as a result of Lessor's exercise of any right or remedy provided for or contemplated by this Leasing Agreement including, without limitation, reasonable attorneys' fees and legal expenses, and expenses of repossession, holding, preparation for sale or other disposition, and sale or other disposition.

If notice to Lessee of any repossession, sale, lease or other disposition is required by applicable law, written notice thereof given not less than ten (10) days prior thereto shall constitute reasonable notice.

15. Purchase of Equipment. When the Amortized Value of any Equipment leased hereunder is zero, and provided that Lessee is not in default hereunder, Lessee may purchase such Equipment at its then fair market value. The lease of such Equipment and Lessee's obligation to pay Rent therefor shall continue until the purchase price has been transmitted to Lessor and shall thereupon terminate. If the parties cannot agree on the fair market value of any such Equipment, they shall select a qualified independent appraiser to determine such value and his decision shall be final.

16. Equipment to be and Remain Personal Property. It is the intention and understanding of both Lessor and Lessee that all Equipment shall be and at all times remain personal property. Lessee shall obtain and record such instruments and take such steps as may be necessary to prevent any person from acquiring any rights in the Equipment paramount to the rights of the Lessor or the Bank by reason of such Equipment being deemed to be fixtures or real property. If, notwithstanding the intention of the parties and the provisions of this Section 16, any person acquires or claims to have acquired any rights in any Equipment paramount to the rights of the Lessor or the Bank, by reason of such Equipment being deemed to be fixtures or real property, and such person seeks in any manner to interfere with the continued quiet enjoyment of the Equipment by the Lessee as contemplated by this Leasing Agreement, then the Lessee shall promptly notify the Lessor and the Bank in writing of such fact (unless the basis for such interference is waived or eliminated to the satisfaction of the Lessor within a period of ninety (90) days from the date it is asserted) and the Lessee shall within ninety (90) days after such notice pay to the Bank an amount equal to the Amortized Value of the Equipment at the time of payment. The lease of the Equipment shall continue until such payment and shall thereupon terminate at the end of the month during which such payment shall have been received by the Bank.

17. Miscellaneous. This Leasing Agreement and all rights hereunder shall be governed by the law of California. Each of the parties hereto acknowledges that the other party shall not by act, delay, omission or otherwise be deemed to have waived any of its rights or remedies hereunder or under any other instrument given hereunder unless such waiver is given in writing and the same shall be binding to the extent therein provided and only upon the parties signing the same. A waiver on any one occasion shall not be construed as a waiver on any future occasion. No executory agreement shall be effective to change, modify or discharge, in whole or in part, this Leasing Agreement, or any other instrument given in connection therewith unless such executory agreement is

in writing and signed by the party to be charged therewith. All rights, remedies and powers granted herein, or in any other instrument given in connection herewith, shall be cumulative and may be exercised singularly or cumulatively. This Leasing Agreement shall bind and inure to the benefit of, and the terms "Lessee" and "Lessor" respectively as used in this Leasing Agreement shall include, the respective parties and their respective successors and assigns.

18. Investment Tax Credit. To the extent that any Equipment leased hereunder is or becomes eligible for the investment credit under the Internal Revenue Code as now or hereafter in effect, Lessor shall elect to treat the Lessee as having acquired such Equipment and shall provide Lessee with an appropriate investment credit election provided that Lessee shall indemnify and hold harmless Lessor with respect to any adverse tax consequence other than the loss of the credit which may result from such election, and Lessee shall provide Lessor with a report or statement with respect to all Equipment as to which the investment credit election is applicable, such report or statement to be in such form as may be required for Internal Revenue Service reporting.

19. No warranties by Lessor. AS BETWEEN LESSOR AND LESSEE, ACCEPTANCE FOR LEASE OF THE EQUIPMENT BY LESSEE AND EXECUTION BY LESSEE OF AN INDIVIDUAL LEASING RECORD WITH RESPECT THERETO SHALL CONSTITUTE LESSEE'S ACKNOWLEDGEMENT AND AGREEMENT THAT THE EQUIPMENT IS IN GOOD ORDER AND CONDITION AND IS OF THE MANUFACTURE, DESIGN AND CAPACITY SELECTED BY LESSEE, THAT LESSEE IS SATISFIED THAT THE SAME IS SUITABLE FOR ITS PURPOSE AND THAT LESSOR HAS NOT MADE AND DOES NOT HEREBY MAKE ANY REPRESENTATION, WARRANTY OR COVENANT WITH RESPECT TO MERCHANTABILITY, CONDITION, QUALITY, DURABILITY OR SUITABILITY OF THE EQUIPMENT IN ANY RESPECT OR IN CONNECTION WITH, OR FOR THE PURPOSES OR USES OF LESSEE, OR ANY OTHER REPRESENTATION, WARRANTY OR COVENANT OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, WITH RESPECT TO THE EQUIPMENT.

20. Assignment by Lessor of Rights Under this Leasing Agreement and Mortgages of Equipment to The First National Bank of Boston. Lessee acknowledges notice that Lessor proposes to finance its acquisition and ownership of the Equipment by borrowing from the Bank and in that connection may, as security, grant to the Bank chattel mortgages or security interests on the Equipment, it being understood, however, that such chattel mortgages shall contain a provision to the effect that as long as Lessee is not in default hereunder or under any lease, it shall be entitled to uninterrupted use of the Equipment on the terms therein provided. Lessee also acknowledges notice of the intended

assignment by the Lessor to the Bank of the Rents and all other sums due and to become due hereunder, all as security for obligations of the Lessor to the Bank. After such assignment the terms and provisions of this Leasing Agreement may not be altered, modified or waived without the written consent of the Bank and after such assignment and written notice thereof to the Lessee, the Lessee shall make payment of all Rents and other payments due hereunder directly to the Bank, and such payments shall discharge the obligations of Lessee to Lessor hereunder to the extent of such payments. The assignment by the Lessor to the Bank of rights hereunder shall not transfer to the Bank the general title to Equipment or impose on the Bank any of the duties or obligations of the Lessor hereunder, but in all other respects the Bank shall have all the rights and benefits of the Lessor hereunder to the extent necessary to realize upon Rents and other monies payable by the Lessee and to protect the Bank's security interest in Equipment resulting from the chattel mortgage.

21. Termination. Either Lessor or Lessee may terminate this Leasing Agreement at any time with respect to any new or additional Equipment or leases by giving notice in writing to the other party of such termination, provided, however, that such termination shall in no way affect any transactions entered into or rights created or obligations incurred prior to such termination, as to which transactions, rights and obligations this Leasing Agreement and all provisions hereof shall be fully operative until such transactions, rights and obligations are fully disposed of, concluded and/or liquidated.

22. Identification Markings and Numbering. At or prior to the time of the delivery of any Equipment to the Lessee by the Lessor, the Lessee shall cause to be plainly, distinctly, permanently and conspicuously marked, placed or fastened upon each unit of Equipment the following legend in letters not less than one inch in height:

"PROPERTY OF THE COMMONWEALTH PLAN, INC.,
OWNER AND LESSOR"

and any other legend requested by the Lessor disclosing the interest of any mortgagee in the Equipment. At or prior to the time of delivery of any Equipment consisting of locomotives, railroad cars or other rolling stock to the Lessee, the Lessee shall cause one of its car reporting marks and designated car numbers to be assigned to and marked and/or placed on each side of each unit of Equipment delivered. At all times after delivery the Lessee will cause each unit of Equipment to bear on each side thereof the aforesaid legend

and the car number so assigned to it. Such car reporting marks and designated car numbers shall not be changed by the Lessee without the prior written consent of Lessor and any assignee of Lessor. Lessee agrees to file all necessary and appropriate documents with the Interstate Commerce Commission and/or any other authority as may be required under Federal, state or local law, rules or regulations with respect to any such change in car reporting marks and designated car numbers.

IN WITNESS WHEREOF, Lessor and Lessee have duly executed this Leasing Agreement as of the day and year first above written.

Attest:

Doris R. Muhlke
Assistant Secretary

THE COMMONWEALTH PLAN, INC.
Lessor

By Bernard Seligman
President

Form Approved
100m
Counsel

Attest:

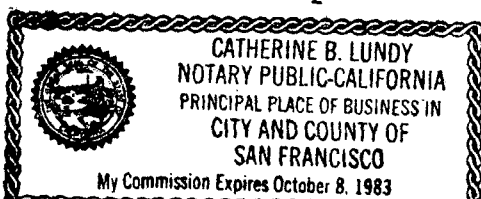
J. F. O'Donnell
Assistant Secretary

SOUTHERN PACIFIC TRANSPORTATION
COMPANY, Lessee

By Bruce G. McPherson
Assistant Vice President AND
TREASURER

STATE OF CALIFORNIA)
) ss:
COUNTY OF SAN FRANCISCO)

On this.....5th.....day of.....May....., 1980.,
before me personally appeared...Bruce H. McPherson.....,
to me personally known, who, being by me duly sworn, says
that he is.....Asst. VP. Treasurer.....of
Southern Pacific Transportation Company....., that one
of the seals affixed to the foregoing instrument is the
corporate seal of said corporation, that said instrument was
signed and sealed on behalf of said corporation by authority
of its Board of Directors, and he acknowledged that the
execution of the foregoing instrument was the free act and
deed of said corporation.

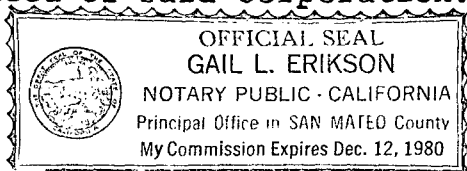


Catherine B. Lundy
Notary Public

My Commission Expires: October 8, 1983

STATE OF CALIFORNIA)
) ss:
COUNTY OF SAN MATEO)

On this.....5th.....day of.....May....., 1980.,
before me personally appeared....Bernard Goldman.....,
to me personally known, who, being by me duly sworn, says
that he is.....President.....of
The Commonwealth Plan, Inc....., that one
of the seals affixed to the foregoing instrument is the
corporate seal of said corporation, that said instrument was
signed and sealed on behalf of said corporation by authority
of its Board of Directors, and he acknowledged that the
execution of the foregoing instrument was the free act and
deed of said corporation.



Gail L. Erikson
Notary Public

My Commission Expires:
Dec. 12, 1980

RAILROAD EQUIPMENT LEASED TO
SOUTHERN PACIFIC TRANSPORTATION COMPANY
BY THE COMMONWEALTH PLAN, INC.
MASTER LEASING AGREEMENT
DATED AS OF MAY 1, 1980

One Class 400-K-1 Locomotive, AAR Mechanical Designation
B-B, Symbol SP and Number 1600

Two Hundred (200) Tri-level Auto Racks, AAR Mechanical Designation FA,
attached to railroad flatcars described as follows:

TTX 854162 through 854320, inclusive, and

| | | | | | | | |
|------|--------|--------|--------|--------|--------|--------|--------|
| ETTX | 900186 | 900210 | 900212 | 900230 | 900241 | 900270 | 900290 |
| | 901721 | 900983 | 901262 | 901267 | 901468 | 900281 | 901614 |
| | 901709 | 901740 | 901778 | 902624 | 902632 | 901499 | 903324 |
| | 903384 | 903398 | 903418 | 903419 | 903422 | 903100 | 903603 |
| | 903859 | 903874 | 903875 | 903877 | 907283 | 903593 | 907449 |
| | 907725 | 907729 | 908039 | 908262 | 908455 | 907398 | |